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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,780	02/09/2004	Gregory D. Aviza	00216-674001 / Case 8144	8854

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EXAMINER
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PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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05/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/774,780

Applicant(s)

AVIZA, GREGORY D.

Examiner

Kenneth E. Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 22,28,29,31-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22,28,29,31-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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1. Claims 33,34 and 39 are objected to because of the following informalities:

The dependency of claim 33 should be 32, not 33.

The dependency of claim 34 should be 33, not 34.

The dependency of claim 39 should be 22, not 1.

These are not considered to be indefinite, since it was clear what Applicant intended.

The claims will be examined as if the corrections had already been made.

Appropriate correction is required.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22,29,31,35,36,39,41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Santhagans Van Eibergen '961, who shows in figure 3 a razor with most of the recited limitations including a housing having a guard (21,25), a rectangular recess, and a lubricating strip (23, lines 18-21, column 6). Santhagans Van Eibergen also shows a blade subassembly having three metal blades (5) secured in slots in blocks (ends of 9).

Santhagans Van Eibergen's blocks are of unknown material. Examiner takes Official Notice that in the art of razors, it has long been known to employ plastic for most of the pieces. This point has not been challenged and is now taken as fact. For

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example, see claim 9 of Lembke et al.'467. Additional examples can be provided if needed. It would have been obvious to one of ordinary skill in the art to have made Santhagans Van Eibergen's blocks out of plastic, as is standard in the art, in order to decrease costs and simplify the manufacturing process.

8. Claims 22,28,29,35,38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Francis '853, who shows in figure 10 a razor with most of the recited limitations including a housing having a guard (60) and a rectangular recess which holds a blade subassembly having two metal blades (40',42') secured to blocks (44').

Francis's blocks are of metal instead of plastic. Examiner takes Official Notice that in the art of razors, it has long been known to employ plastic for most of the pieces. For example, see claim 9 of Lembke et al.'467. Further in support of the taking of Official Notice is the patent to Anderson showing the use of plastic with protrusions to hold the blades (lines 46-49, column 2). Additional examples can be provided if needed. It would have been obvious to one of ordinary skill in the art to have made Francis's blocks out of plastic, as is standard in the art, in order to decrease costs and simplify the manufacturing process.

4. Claims 22,29,31-35,36,39,41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Santhagans Van Eibergen '961, as modified above, and further in view of Anderson '316.

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In regards to at least claims 32-34, Santhagans Van Eibergen lacks a projection that holds the blade in place. However, Anderson shows that it is well known to employ projections (19) that extend thru the end of the blade. It would have been obvious to one of ordinary skill in the art to have further modified Santhagans Van Eibergen by providing projections, as taught by Anderson, in order to more securely hold the blade. Please take note that Anderson also teaches using plastic as the block material (lines 46-49, column 2).

5. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Santhagans Van Eibergen '961, as modified above.

Santhagans Van Eibergen's razor has three razor blades, but does not explicitly discuss having four or five. Examiner takes Official Notice that it is old and well known for razors of this type to have up to five blades. Applicant has not challenged this point and it is now taken to be fact. An example of this is the patent publication to Coffin et al.'835 (line 1, page 2). It would have been obvious to one of ordinary skill in the art to have modified Santhagans Van Eibergen by employing up to five blades, instead of just three, as is well known and taught by Coffin, in order to provide a smoother shave.

6. Claims 39,41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Francis '853, as modified above, and further in view of Santhagans Van Eibergen '961

Francis' razor lacks a lubricating strip, but such is ubiquitous as exemplified by Santhagans Van Eibergen (23, lines 18-21, column 6). It would have been obvious to one of ordinary skill in the art to have provided a lubricating strip for Francis, as taught by Santhagans Van Eibergen, in order to provide a smoother shaving experience.

7. Applicant's arguments have been fully considered but they are not persuasive. Applicant has overcome the 102b rejection by Andrews.

Applicant argues against the 103 rejection by Santhagans Van Eibergen, stating that the ends of Santhagans Van Eibergen's frame (9) are not blocks. Examiner disagrees. Applicant's attempts to redefine "block" as a stand-alone object with nothing attached to it runs contrary to his very own specification. Applicant has blades affixed to his blocks to attach them together and yet still calls them blocks. Why can't the prior art blocks have things attached to them and yet still be called blocks? There is no language in the claims rejected by Santhagans Van Eibergen that preclude things being attached to the blocks. This important point is highlighted by the fact that claims 38 and 40 *do have* language precluding additional elements (the "consisting of" language) and this has successfully prevented the use of Santhagans Van Eibergen against claims 38 and 40.

Applicant argues against the 103 rejection by Francis, stating that the conversion of the blocks from metal to plastic would unacceptably weaken the device. In this regards, one must keep in mind that a person having ordinary skill in this case would have a B.S. in mechanical engineering or the like, and would have been employed by a

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razor manufacturer for several years. Such a person would be well educated in the art of getting the most out of plastic. Some plastics that hold razor blades can be quite strong (see Anderson's lines 46-49, column 2) and the plastic can be molded with various protrusions (e.g. Anderson's protrusion 19) to get a better grip on the razor blade. Considering that the person having ordinary skill in the art has access to strong plastics with protrusion gripping technology, it would not be a challenge to engineer the parts out of plastic to withstand the 6-14 pounds of pressure per blade discussed on Francis's lines 45,46 of column 3.

Applicant further argues that known plastic creep would discourage one of ordinary skill in the art from using plastic in this case. It is true that steel blocks would be stronger, but that is just one of many factors. For a tool such as a razor blade cartridge, manufactured by the millions with a life expectancy of just weeks, the cost is an even more important factor than the strength. Why make it strong when it will soon get thrown away? It might be better for the company to make it cheaply out of plastic instead, depending on what market segment was being targeted. Furthermore, one of ordinary skill can select a strong plastic that has minimal creeping properties. Given the knowledge and the choices above, plastic is one of the more obvious choices. Not the only choice, but definitely one of the more obvious choices.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth E. Peterson whose telephone number is 571-272-4512. The examiner can normally be reached on Mon-Thur, 7:30-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

kp



KENNETH E. PETERSON  
PRIMARY EXAMINER